

IN THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Cancelled)

2. (Currently Amended) An optical disk apparatus according to claim [[1]]6, wherein the waiting position decision portion detects physical properties of each region in the optical disk from the reflected wave from the optical disk by the optical head, and distinguishes the information recording layer into an unrecorded region and a recorded region where the recording processing has been performed on the basis of the detection.

3. – 5. (Cancelled)

6. (Currently Amended) ~~An optical disk apparatus according to claim 1~~ An optical disk apparatus comprising:

a rotation control portion controls rotating of an optical disk having an information recording layer;

an optical head which irradiates the optical disk which is rotated by the rotation control portion, with a laser beam or receives reflected wave, and performs recording processing or reproducing processing;

a waiting position decision portion which detects physical properties of each region in the optical disk after the recording processing or reproducing processing is finished, and decides a waiting position of the optical head according to the physical properties; and

a control portion which controls a position of the optical head according to the waiting position decided by the waiting position decision portion in order to move the optical head to wait,

wherein, when the waiting position decision portion detects physical properties of each region in the optical disk from the reflected wave from the optical disk by the optical head and distinguishes the information recording layer into an unrecorded region and a recorded region where the recording processing has been performed on the basis of the detection, when the unrecorded region is present in each of a plurality of recording layers of the optical disk, the waiting position decision portion gives priority to the unrecorded region

located in the recording layer on the side of the optical head, and decides the waiting position at a position before a boundary line of the unrecorded region by a predetermined amount toward the side of the recorded region.

7. - 11. (Cancelled)

12. (Currently Amended)A waiting method according to claim ~~[[11]]~~16, wherein the waiting position decision detects physical properties of each region in the optical disk from the reflected wave from the optical disk by the optical head, and distinguishes the information recording layer into an unrecorded region and a recorded region where the recording processing has been performed on the basis of the detection.

13. - 15. (Cancelled)

16. (Currently Amended)~~A waiting method according to claim 11~~A waiting method of an optical disk apparatus having an optical head which irradiates an optical disk having an information recording layer with a laser beam or receives reflected wave and performs recording processing or reproducing processing, comprising:

rotating the optical disk at predetermined rotation speed;

detecting physical properties of each region in the rotating optical disk after the recording processing or reproducing processing is finished, and deciding a waiting position of the optical head according to the detection; and

controlling a position of the optical head according to the decided waiting position in order to move the optical head to wait,

wherein, when the waiting position decision detects physical properties of each region in the optical disk from the reflected wave from the optical disk by the optical head and distinguishes the information recording layer into an unrecorded region and a recorded region where the recording processing has been performed on the basis of the detection, when the unrecorded region is present in each of a plurality of recording layers of the optical disk, the waiting position decision gives priority to the unrecorded region located in the recording layer on the side of the optical head, and decides the waiting position at a position before a boundary line of the unrecorded region by a predetermined amount toward the side of the recorded region.

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17. – 19. (Cancelled)